

INTERNATIONAL TELECOMMUNICATIONS
ACT OF 1982

NOVEMBER 30, 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT
together with
ADDITIONAL VIEWS

[To accompany S. 2469]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2469) to amend the Communications Act of 1934 to provide for improved international telecommunications, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

BACKGROUND AND NEED

International telecommunications has undergone significant changes since the enactment of the Communications Act of 1934 (the 1934 Act) and the Communications Satellite Act of 1962 (the 1962 Act). Although the first international telegraph cable was laid in the middle of the last century, it was not until 1956, well after the Communications Act was written, that the first voice cable between the U.S. and Europe was completed. Further development of international services came with the initiation of satellite communications in 1965. These developments have helped facilitate the exponential growth in international telecommunications.

Today, terminals attached to the network range from the familiar dial telephones and simple teletypewriters to literally hundreds of different devices such as facsimiles, data processing, and automatic answering terminals plus sophisticated telephone and switchboard systems. International telecommunications services include telephone and telegraph offerings, high speed data communications, electronic mes-

sage services, video transmission, and teleconferencing services. There is now a choice of international transmissions media available including radio, coaxial submarine cables, satellites, and shortly, fiber optic systems. Switching and network controls are increasingly being performed by sophisticated computers that are capable of providing a host of specialized services.

The 1934 and 1962 Acts are simply no longer adequate as statements of U.S. policy in international telecommunications. Certain of their provisions actually impede the delivery of technologically advanced and reasonably priced services in the increasingly important information sector of the nation's economy.

Given consumer demand and technological advances to meet it, a continued shift to competition in international telecommunications is inevitable. If no changes are made to the 1934 and 1962 Acts, the consequence will be a continuation of the long series of disruptive regulatory and court challenges which could find U.S. policy in international telecommunications established by the judicial system. This process delays service to the public, creates uncertainty in the investment community, raises entry barriers for innovative small firms, inhibits growth, and encourages established firms to expend valuable resources in the regulatory and judicial arenas rather than competing in the international marketplace where the public will benefit.

Some regulation of international telecommunications services however, will remain necessary. If the full benefits of competition in this sector of the U.S. economy are to be achieved, however, the residual regulation must be strictly confined to that which is necessary: (a) to achieve purposes not fully met by competition; (b) to promote the interests of national defense, security and emergency preparedness; and (c) to manage the transition to the competitive environment sought by the legislation.

If there is unnecessary regulation of international telecommunications services, then the benefits of competition will be lost. Both the 1934 and 1962 Acts give the Federal Communications Commission (FCC or Commission) wide latitude in exercising its statutory authority. There are those who question the FCC's authority to eliminate unnecessary regulation, particularly in the international arena, even when the public is clearly protected against market power abuse. Unnecessary, and hence burdensome, regulation of competitive markets is not only a waste of taxpayers' dollars, but also enables established firms to manipulate the regulatory process to impede competition and new entry. The result is delay in the introduction of new services. This pervasive regulation and the attendant appellate review have a chilling effect on investment and growth. Given the widely recognized merger of the technologies underlying telecommunications and data processing, there is concern that needless regulation is not only a threat to competition in international telecommunications, but also a threat to the highly innovative data processing market as well. As a result, a purpose of S. 2469 is to limit FCC jurisdiction primarily to those areas where the public is inadequately served by marketplace forces.

Since 1968, the Commission has been deregulating and opening the door to increased competition in domestic telecommunications services, but it has, understandably, moved more slowly in international

telecommunications. For example, its ongoing Competitive Carrier rulemaking is applicable to domestic carriers only. In the Second Computer Inquiry, the FCC followed a sound policy—to rely on the competitive marketplace rather than regulation, in the provision of all customer premises equipment and both domestic and international enhanced services. The applicability of this decision to enhanced services internationally is under review. The Commission's recent decisions to expand Comsat's role beyond that of a carriers' carrier—by eliminating a restriction Congress never intended to be permanent—is under appellate review. The Commission and the courts are in need of Congressional guidance.

The Senate passage of S. 898, the Telecommunications Competition and Deregulation Act of 1981, sent a clear signal to the FCC that the Senate supports a procompetitive, deregulatory domestic telecommunications policy. S. 898 left unanswered the question of U.S. international telecommunications policy. S. 2469 answers that question. The Committee believes that the Commission must not waver in encouraging competition and pursuing deregulation internationally. The bill, therefore, enunciates as a matter of U.S. policy in international telecommunications a presumption of marketplace competition rather than regulation.

The Committee recognizes that international telecommunications services are necessarily cooperative undertakings between the U.S. carriers and other nations. Thus, the sovereign rights of those other nations must be taken into consideration in implementing U.S. policy internationally. Some deviation from U.S. procompetitive policies in such cases may be appropriate. That is not to suggest, however, that U.S. international telecommunications policy should be established by default. To do so would be to abrogate the sovereign rights of the United States. As FCC Commissioner Fogarty said in his concurrent statement in "Overseas Telecommunications":

Coupled with the need for circuit planning is the necessity for the foreign correspondents to recognize our competitive policies. Many other foreign correspondents have balked at dealing with more than a small number of U.S. carriers. The specialized carriers which we have authorized to offer international services have met with almost universal opposition when seeking operating arrangements abroad. Now that the Commission has considered and, to some degree, deferred to the policies and expressed needs of the foreign governments, we should expect "tit for TAT" from the Europeans in terms of *their* recognition of *our* competitive policies and *their* agreement to deal with *our* multiplicity of carriers (71 FCC 2d at 99, emphasis in the original).

The United States must continue to press for adoption of its policies.

The competitive marketplace for information services (or "enhanced services" (as the FCC defines it) is one area where further innovation is inevitable. Such services should be allowed to develop free of Government regulation. International competition in this area, as it is domestically, is dependent upon the availability of basic transmission facilities. At the present time, international private line

services may be leased only for the private use of the customer. Since resale of these private lines is prohibited, providers of enhanced services (such as data processors) must obtain transmission from established carriers or make their own arrangements with foreign correspondents. The Committee believes that these restrictions on the use of international private lines should be eliminated. Changes to appropriate Recommendations should be pursued through negotiations at the International Telegraph and Telephone Consultative Committee (CCITT), the standard-making organ of the International Telecommunication Union (ITU) responsible for technical, operating and tariff issues relating to global telecommunications, including telegraphy and telephony.

United States delegations should seek to ensure accommodation of the basic/enhanced dichotomy in the CCITT and other appropriate forums. Foreign administrations must understand the theory on which those policies are based.

Some foreign administrations have expressed concern over the potential loss of revenue that they believe would result from traffic being diverted from switched services, if resale/sharing were permitted. This concern must be dealt with in a manner that recognizes their telecommunication systems are frequently based on a different industry and governmental structure and historical perspective. In such negotiations it must be kept in mind that it is essential that private leased circuits continue to be provided on a full flat rate basis, as they are today.

In order to fulfill the U.S. obligation under Article 44 of the International Telecommunication Union (ITU) Convention to "authorize" private operating agencies to establish and operate telecommunications and to engage in international services, the FCC should grant private operating agency status to enhanced service providers that request such status. Such certification could be like that of a manufacturer's certification under part 68 of the FCC's rules.

The Committee has determined that a further goal of U.S. policy is to have the General Agreement on Tariffs and Trade (the "GATT") cover trade in telecommunications services. The entire services sector of the United States is the primary source of economic activity, economic growth, and employment in the United States. Approximately 65 percent of the U.S. GNP is in the form of services, and 7 out of 10 American workers are employed in this sector. In addition, information processing products and telecommunications services are increasingly interdependent. Information processing products are increasingly used in conjunction with telecommunications services. Further, many services based on telecommunications provide functions to users similar to those furnished by information processing products; therefore a liberal environment for products can be frustrated by a restrictive environment for services. The Office of the U.S. Trade Representatives (USTR) should accelerate its program: (a) to achieve an international understanding of the type of government measures that create barriers to trade in information processing and telecommunications services; and (b) to determine the extent to which the GATT framework provides a basis for removal of such barriers.

The efforts of the State Department, the FCC, and the USTR must be coordinated through the International Telecommunications and In-

formation Task Force established by S. 2469. Through such coordinated efforts the full benefits of increased competition will be ensured, and reduced government regulation will be bought to the international telecommunications marketplace. As the advantages of a freely competitive environment become evident internationally, the Committee expects that other nations will be motivated to emulate the United States and adopt more liberal approaches toward telecommunications and information services and products within and across their own borders.

REGULATORY HISTORY

Various Federal agencies and departments have regulated U.S. international communications since their inception in 1866. The type of regulation which has been imposed has generally followed the pattern of domestic "public utilities" (that is, rate base and rate of return) regulation. The international market has retained, in some services, more head-to-head competition than has generally been the case in the domestic market.

The most important international service is message telecommunications service (MTS)—long-distance telephone service—(accounting for 90 percent of the market), provided by the American Telephone and Telegraph Company (AT&T). As in the case of domestic regulation, international MTS regulation was built upon the assumption that pervasive monopoly rate-base regulation was the best way to assure universal telephone service at reasonable charges.

In recent years, rapid developments in communications technology and changes in the patterns of communications use has resulted in a major change in both the domestic and international communications markets. These changes first appeared in the domestic market, but are beginning to have an impact on the international market as well. Congress began a review of traditional international regulatory policy in 1977, to assess whether new policies might better serve U.S. communications interests. Through this review, it was determined that the goal of U.S. policy must be to remove unnecessary or burdensome regulations. With Congressional encouragement the FCC reacted to changes in technology and the marketplace in a series of decisions which is changing the traditional face of international regulation. The Commission has sought to encourage the entry of new carriers, the addition of new services, and reliance upon the marketplace to assure the availability and flexibility of carrier services.

TRT direct service to Italy (1974)

The FCC granted TRT Telecommunications Corporation authority to acquire satellite circuits to Italy, and to use those facilities to provide its various record services to that point. By interconnection with the Italian administration, TRT could serve a large number of other overseas points which it has not theretofore been authorized to serve. The decision increased the competition faced by the other International Record Carriers (IRCs) on the important United States-Italy route. This decision also set the stage for a succession of other, similar grants to TRT and other so-called regional carriers.

International Telegraph formula revision (1975)

The FCC revised the formula required by section 222 of the Communications Act under which Western Union distributes to interna-

tional carriers the outbound, unrouted, international telegrams it picks up in the United States. The prior formula had been intended to freeze carriers' market shares as of a given date in order to prevent Western Union from increasing its share unfairly. The FCC replaces the old formula with one which encouraged competition among telegraph carriers. The Record Carrier Competition Act of 1981 (Public Law 97-180) kept the existing formula in effect for a year thus repealing the formula thereafter.

Graphnet/Telenet international authorizations (1977)

The FCC extended its domestic Specialized Common Carrier liberal entry policy into the international arena by authorizing two new common carriers to provide new, specialized international communications services.

Spanish International Network decision (1978)

The FCC decided that international television-transmission service (at present provided by the Intelsat satellite system) should be competitive and that Comsat should be allowed to compete by permitting it to provide transparent international television channels directly to areas at U.S. Earth stations. Under the Commission's traditional authorized user policy, Comsat was not eligible to provide any service directly to users, but was restricted to offering satellite circuits to AT&T and the IRC's. The Commission had also applied a "carrier of the week" policy in which the right to offer television service rotated weekly among AT&T the carriers eligible to provide television transmission service. The FCC abolished the carrier of the week concept, opening the service to direct competition, and found that Comsat was not barred by the 1962 Act from providing television channels directly to users. The decision has been appealed to the Court of Appeals.

Telex interconnection (1980)

The FCC required the IRCs to "unbundle" their provision of terminal equipment and trunks in connection with their overseas telex service, and to institute separate, cost-based charges for each. The Commission also required the IRC's to permit other IRC's, upon request, to interconnect their telex networks, so that telex customers of one IRC would be able to use their telex terminals to communicate with overseas points not served by the carrier to whose service the customers subscribed. The FCC subsequently required the IRC's, consistent with its decision in the Second Computer Inquiry, to "detrack" the provision of terminal equipment.

Gateways decision (1980)

The FCC granted the IRCs authority to open public offices and offer services directly to the public in additional areas where the IRC's (who had since 1943 been limited to a few cities) could compete. This decision increased the number of U.S. residents who could take advantage of direct overseas IRC service. It also allowed the first substantial competition to the Western Union Telegraph Company's (Western Union) international telex service in the United States.

Dataphone/Datel decision (1980)

In this decision the FCC granted AT&T the right, as a secondary or "ancillary" use, to use its overseas MTS (long-distance telephone)

voice network for the transmission of data and other record communications (Dataphone) and granted the IRCs the right to use as a similarly secondary or ancillary use, their overseas Datal (switched-record) networks for the transmission of voice communications. These decisions eliminated part of the so-called voice/record dichotomy which had prevented AT&T from providing overseas record services, and the IRCs from providing overseas voice services.

International Relay, Inc. [IRI] authorization (1980)

In granting common carrier status to IRI, the Commission abolished its traditional requirements that an applicant have an operating agreement with an overseas administration as a condition precedent to authorization.

Second computer inquiry (1980)

The FCC extended to the international market the distinction between "basic" (regulated) common carrier services and "enhanced" (unregulated) competitive non-common-carrier services. More recently, in the Telenet decision (1982), the FCC restated the application of its basic/enhanced dichotomy to international services, and stated that any enhanced services now being provided internationally as regulated common carrier services must be offered on an unregulated basis by January 1, 1983. The Computer II decision has been appealed.

International resale rulemaking (1980)

The FCC announced its tentative approval of the extension of its domestic resale and shared use policies to the international market.

TAT-1 reconsideration (1980)

The FCC initiated a rulemaking proceeding to decide whether to remove entirely the so-called voice/record dichotomy, which since 1964, has prevented AT&T from providing record services internationally, and the IRCs from providing voice services internationally.

Record Carrier Competition Act of 1981 (Public Law 97-130)

Congress amended section 222 of the Communications Act to repeal the limitations upon Western Union which prevented it from providing international communications services in competition with the IRCs. The legislation also provided for comprehensive interconnection arrangements between international and domestic carriers.

Pursuant to Public Law 97-130, the FCC prescribed interconnection arrangements for international and domestic record carriers which required the carriers to grant all other carriers equal interconnection of their respective networks. The FCC also required the carriers to unbundle their overseas transmission charges into separate domestic and international components, and established interim provisions to determine the charges for domestic handling of international traffic. Finally, the FCC established a formula which is designed to negate any advantage an IRC may derive from its operating agreement, with a country that refuses to grant one to another U.S. carrier. The decision has been appealed.

Western Union reentry into international operations (1982)

Pursuant to Public Law 97-130, the FCC authorized Western Union to reenter international operations.

Removal of restrictions on resale of international MTS (1982)

AT&T voluntarily removed the restrictions in its tariff which prohibited the resale of international long-distance telephone service (MTS).

Authorized user decision (1982)

The FCC reconsidered its 1966 interpretation of the 1962 Satellite Act, which limited the Communications Satellite Corporation (Comsat) to the role of a "carrier's carrier" supplying satellite circuits to other carriers (chiefly, AT&T and the IRCs) for their use in providing service to the public. The decision allowed anyone, whether a carrier or not, wishing to use satellite circuits to do business directly with Comsat. The decision also made clear that Comsat is eligible to seek authorization as an end-to-end service carrier. When implemented it will immediately introduce additional competition in the provision of international service, and pave the way for even greater competition. To prevent Comsat from using its position as the sole U.S. representative in Intelsat (the international satellite consortium) to gain an unfair advantage over its competitors, the FCC required Comsat to provide end-to-end services solely through a separate corporate subsidiary, and required that subsidiary to take satellite service from the Comsat parent on a tariffed basis. The decision has been appealed to the Court of Appeals.

Comsat structure rulemaking (1982)

Pursuant to the International Maritime Satellite Act, the FCC conducted a comprehensive study of Comsat which identified a number of areas where Comsat's increasing expansion into activities outside its traditional Intelsat and Inmarsat functions might present future conflicts of interest or other problems. In response to that study Comsat reorganized itself into separate jurisdictional (Intelsat/Inmarsat) and nonjurisdictional (competitive) operations. The FCC reviewed that reorganization plan, and required additional changes to assure maximum separation of Comsat's competitive and monopoly activities.

Earth Station ownership policy inquiry (1982)

The FCC initiated an inquiry to examine its current policy on ownership of U.S. satellite earth stations operating within the Intelsat satellite system. Currently, U.S. earth stations are owned by a consortium of U.S. carriers the Earth Station Ownership Committee [ESOC]. Comsat holds a 50-percent interest. Some U.S. carriers have sought authority to build their own general—or special—purpose earth stations.

Direct access to INTELSAT (1982)

The FCC has initiated an inquiry to examine the validity of arguments by some U.S. common carriers that they should be allowed direct access to the Intelsat space segment, Comsat, or some form of "cost-based" access so as to reduce their cost for obtaining satellite capacity.

LEGISLATIVE HISTORY

S. 2469, the International Telecommunications Competition Act of 1982, a bill to amend the Communications Act of 1934 to provide for

improved international telecommunications and for other purposes, was introduced during the second session of the 97th Congress on May 3, 1982 by Senators Goldwater, Schmitt, and Cannon. The Communications Subcommittee held hearings on June 14, 15, and 17, 1982, and heard from the following witnesses.

On June 14, 1982 the subcommittee heard testimony from: Hon. Mark Fowler, Chairman, FCC; Lt. Gen. William J. Hilsman, Director, Defense Communications Agency; Hon. Matthew J. Scocozza, Deputy Assistant Secretary for Transportation and Telecommunications Affairs, Department of State; Hon. Bernard J. Wunder, Assistant Secretary for Communications and Information, Department of Commerce; and Geza Feketekuty, Assistant U.S. Trade Representative for Service and Policy Development.

On June 15, 1982 the subcommittee heard testimony from: Dr. Joseph V. Charyk, president and chief executive officer, Communications Satellite Corporation; Robert Conn, executive vice president, Western Union International, Inc.; Stuart Mathison, vice president, corporate planning, GTE Telenet, Inc.; Roger Newell, vice president and general counsel, FTC Communications, Inc.; Ronald Stowe, director and assistant general counsel for governmental and international affairs, Satellite Business Systems; Richard B. Nichols, vice president, Overseas, Long Lines Department, AT&T; Howard A. White, executive vice president and general counsel, U.S. Telephone and Telegraph Corporation; Eugene Murphy, chairman of the board, RCA Global Communications, Inc.; and Ronald Coleman, counsel, TRT Communications Corporation.

On June 17, 1982, the subcommittee heard testimony from: Michael R. Gardner, Chairman, U.S. Delegation to the 1982 Plenipotentiary Conference, International Telecommunication Union; William G. McGowan, chairman of the board, MCI Telecommunications; Stephen E. Doyle, director, advanced planning, Aerojet Liquid Rocket Company; Herbert A. Schulke, Jr., vice president and manager, telecommunications strategies, Chase Manhattan Bank; and Floyd Wilkerson, vice president, information systems, Eaton Corporation.

The Committee on Commerce, Science, and Transportation met in open markup session on September 30, 1982 to consider S. 2469, and unanimously ordered the bill reported.

SUMMARY OF BILL

U.S. POLICY AND FCC AUTHORITY

The bill makes clear that the policy of the United States is to rely wherever and whenever possible on marketplace competition and the private sector to provide international telecommunications services, and to reduce or eliminate unnecessary regulation. This is based upon the Committee's belief that competition enhances technological innovation, efficiency, and provision of services to the public at reasonable rates. When it is necessary to regulate international telecommunications service, it must be the absolute minimum necessary to achieve the purposes of the act. The presumption is that there are no technological, operational or economic factors precluding international competition. As such the Committee expects the FCC to continue to remove

restraints on carriers that, for example, prohibit the IRCs from offering international voice service, AT&T from offering overseas data or record services, and Comsat from offering services directly to the public.

The Committee recognizes, however, that U.S. pro-competitive policies are not followed worldwide. In most foreign countries domestic and international telecommunications services and facilities are monopoly-based, often provided by governmental entities. Technological advances are sure to lead to an erosion of the concept of monopoly supply internationally, as they have eroded the viability of a monopoly on the provision of domestic telecommunications services. But until this takes place in international services, the provision of these services will continue to be primary joint undertakings between private U.S. carriers and foreign governments. Hence, the United States must consider the interests of foreign nations in formulating U.S. policy.

In December 1980, the FCC initiated a rulemaking proceeding to lift prohibitions on the resale and shared use of international facilities. The mere promulgation of the proposed led to a raft of opposition abroad and domestically among U.S. carriers and users of international services. The existing CCITT recommendations prohibit resale and shared use, and it was generally thought that unilateral action by the FCC might well lead to retaliatory actions abroad. Specifically, it was claimed that foreign administrations would discontinue private line offerings. The Committee recognizes the competitive opportunities presented by the resale and shared use of international telecommunications facilities, but also appreciates the limitations on unilateral U.S. action. Hence, the bill encourages the U.S. Government to actively pursue in international forums, like the CCITT, the concept of unimpeded resale and shared use.

The bill also extends the principle of cost based interconnection to monopoly transmission facilities. Under section 304 of S. 2469, Comsat would be permitted to provide service directly to the public while retaining its status as U.S. representative to Intelsat. Carrier and non-carrier users should obtain basic, transparent transmission service from monopoly providers on equitable terms and conditions. Comsat may provide service beyond basic transmission facilities, including full end-to-end service, but such service should be structurally separate so as to avoid possible anticompetitive conduct. As further protection against possible anticompetitive conduct in regard to these and other monopoly facilities, the FCC shall pursue a policy that promotes cost based access.

Under section 603, the Commission is authorized to exercise only so much regulatory power as is essential to carry out the purposes of act. The Commission is required to reduce, revise or eliminate rules and regulations with respect to international telecommunications services as competition develops. It is given the authority to exempt persons from its regulatory reach, in whole or in part. (Carriers with insignificant market power in particular service or geographic markets may be exempt.) The two exceptions to regulatory reduction are if the reduction would result in an adverse impact on the national defense and security or emergency preparedness, or the economic competitiveness of the United States telecommunications industry

vis-a-vis foreign competition. The Committee's intent is that the Commission not exercise all of the authority it has under the law in all circumstances, but that it tailor the degree and manner of regulation to the particular situation with which it is confronted. The Committee encourages the FCC, however, to consider some form of carrier certification, similar to that used for equipment under part 68 of the Commission's Rules. Such certification would only be used to enhance the standing of U.S. carriers in the domestic and international marketplace.

CLASSIFICATION OF SERVICES AND TRANSITION

Sections 604 and 605 set forth the standards for the Commission to take the industry into a deregulated environment. Within 30 days of the date of enactment of the bill, the FCC must publish which services are regulated as of that date. These services, presumably all provided under tariff, would continue to be provided under tariff, and thus regulated, for the next 11 months.

Within a year of the date of enactment the Commission must decide which of these tariffed services must continue to be regulated. In so doing the FCC will employ the standards set forth in section 604(b) (1) and (2). All services for which the Commission makes no determination as of the 1 year date shall be deregulated. Finally, the Commission is required to review at least every 2 years its decision that a service is to be regulated. When the FCC determines that a service is subject to effective competition, the FCC must deregulate the service. The Committee intends that, as competition develops, the Commission will use reclassification, among its other powers under this act, to continue to foster deregulation.

INTERCONNECTION

The language of section 606 of the bill mirrors that of the Record Carrier Competition Act of 1981 (Public Law 97-130). Its purpose is to impose an affirmative interconnection obligation upon every provider of a regulated international telecommunications service, upon reasonable request, with all other U.S. carriers, telecommunications facilities or customer premise equipment. The objective here is to maximize competition among U.S. carriers offering international telecommunications services to the American public without disturbing the cooperative relationships between U.S. and foreign carriers. Section 606 is designed to permit new carriers through equitable interconnection to offer their American customers international as well as domestic services on a competitive basis with established carriers.

Section 606(b) is essential to making interconnection an effective means of encouraging competition among international telecommunications service providers. It requires all carriers providing both international and domestic services (e.g., AT&T and the IRC's) to treat each operation as a separate entity for the purpose of the interconnection provisions. This means that any competitive domestic carrier attempting to introduce competing international services may assert its interconnection rights under section 606(a) and receive the same interconnection arrangement from the established carrier's international operation as those enjoyed by the established carrier's domestic opera-

tion. This does not mean, however, that a carrier be required to allow joint use of its switches used to provide telecommunications services, or that it be required to collocate in its buildings the equipment of other carriers. This section should also not be interpreted to require revision of the national numbering area (area codes). Finally, section 606 should not be construed to prohibit the offering of optional grades of interconnection and supporting auxiliary services at differing rates, provided that the rate for each service is based on cost.

Section 606(b) does not require full separation for international and domestic service. An "unbundling" of domestic and international tariffs is sufficient to assure that other carriers are interconnected at reasonable rates, and upon nondiscriminatory terms and conditions.

CARRIER CONTRACTS

Pursuant to section 211 of the 1934 Act carriers are required to file with the FCC contracts executed with other carriers. The Commission's authority to require modification of these contracts, in whole or in part, or to vacate all or a portion of these agreements when the agreements are inconsistent with or in violation of the Act has never been tested. S. 2469 gives significant, but clear, authority to the FCC to take action on agreements if the Commission finds them violative of the act or inconsistent with procompetitive policies. The Committee sees this authority as one of the most important tools to insure against anticompetitive carrier/carrier conduct or exclusive dealing arrangements with foreign correspondents in frustration of U.S. procompetitive policies.

For the purpose of defining the reach of FCC authority the bill draws a distinction between agreements among U.S. carriers and agreements between U.S. carriers and foreign correspondents. Section 607(a) gives the FCC authority to vacate or require modification of any contract between or among U.S. carriers entered into after the date of enactment if the Commission finds that the contract is inconsistent with the purposes of the act or unjustly or unreasonably discriminates against any carrier.

The threshold for Commission action on a contract between foreign and domestic carriers is higher. The FCC can declare the contract unlawful only if it finds that the terms of the contract, in whole or in part, violate any of the act's provisions. Since the Commission has no authority over a foreign administration, it is not authorized by this section to either vacate or require modification of a U.S. carrier's agreement with a foreign entity. A Commission decision that a contract is unlawful, however, would prevent a U.S. carrier from performing pursuant to the terms of such an agreement.

INTERNATIONAL TELECOMMUNICATIONS FACILITIES

Section 617 gives the FCC the authority to develop procedures to assess international telecommunications facility construction proposals, and if it decides to assess such proposals, requires the Commission to develop guidelines to aid in the facility construction planning process. This provision is an attempt to carve out the legitimate, but limited, role of the FCC in the facilities planning process, and to recognize the primary role of the investors—the carriers. The Commis-

sion is granted authority, subject to certain conditions, to meet with foreign correspondents. For example: (1) the FCC must give notice of the meetings to interested parties to provide an opportunity to comment on the subjects to be discussed; (2) the meetings shall be public to the maximum extent possible and the record of the proceedings made public; and (3) the FCC must disclose any data obtained during the meeting and used by the Commission in assessing any plan.

A meeting among carriers for planning purposes is not, in itself, a violation of the antitrust laws. This section, however, does not exempt any carrier from the reach of the antitrust laws for unlawful actions taken during, or as a result of, such meetings.

PROTECTION AND RESTORATION OF ESSENTIAL TELECOMMUNICATIONS

The Committee's interests in insuring the continuity of telecommunications essential to national defense and security and emergency preparedness are based largely on the following:

(a) The Department of Defense (DoD) is the largest single U.S. user of leased international telecommunications services, currently leasing 519 private line channels alone, at annual charges of more than \$52 million, to meet the international telecommunications requirement requirements of the National Command Authorities, and other governmental agencies as directed;

(b) Commercial international telecommunications are critical to the accomplishment of the Secretary of Defense's mission as executive agent for the National Communications System, including the successful implementation of executive branch policy objectives and principles such as those contained in Presidential Directive 53; and

(c) Commercial cable and commercial satellite transmission media must be readily available at reasonable rates to maximize the DoD's ability to insure its international telecommunications are secure from interruption by accidental or deliberate action (that is, are "survivable").

Under section 609 the President is given specific authority to require appropriate Federal departments and agencies and carriers subject to the act to develop arrangements for interconnection, mutual back-up, restoration, etc., as necessary to avert disaster or assure continuity of essential national defense telecommunications; the President may require any carrier to provide telecommunications services or facilities to a Federal agency if necessary to the national defense and in a national emergency or where the facilities cannot be obtained from any other source; the President shall coordinate any Government program for enhancing the survivability of facilities used to provide foreign communications or to protect against unauthorized interception. The President is directed to appoint an advisory council to study national defense needs in terms of telecommunications structure and to ensure that the United States shall have a technological advanced and economically viable telecommunications industry.

This provision is necessary to make abundantly clear the Commission's authority, as well as that of the President, to meet national defense and emergency preparedness needs the commission's authority in a competitive environment is not clear. There are no cases in which the

Commission has actually attempted to exercise any authority in this area.

THE INTERNATIONAL TELECOMMUNICATIONS AND INFORMATION
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The provisions in Title II of the bill are similar to those adopted by the Committee in S. 821, the FCC Authorization Act of 1981 (S. Calendar No. 98) Title II of S. 2469 represents a major concern of the Committee, namely that the U.S. Government lacks a comprehensive, cohesive set of national telecommunications goals and a coherent institutional structure to implement these goals.

The United States is the world's telecommunications leader in creating new hardware and software, originating and transmitting data, and providing information-based products. Our leadership, however, is gravely endangered by the changes in the world telecommunications environment and by our Government's inability to respond fully and quickly enough to these developments. Telecommunications and information are the bases of this Nation's economic strength, and failure to enhance and promote these strengths will lead inevitably to the erosion of the political and economic stature of the United States.

Section 203 of S. 2469 establishes a special, seven-member "International Telecommunications and Information Task Force." The Task Force consists of the Secretaries of Commerce, Defense, and State, the Attorney General, the U.S. Trade Representative, the Director of the International Communications Agency, and the Chairman of the FCC. This special task force is chartered initially for 3 years. It will be responsible for reviewing and coordinating U.S. telecommunications and information policies, with special emphasis on world commerce and trade.

Communications and associated information industry products comprise the third largest element in our world trade portfolio. Our growing international trade in services—everything from insurance and financial services to hotel, airline, and computerized library services—is becoming increasingly important to the U.S. economy. Its volume has been conservatively estimated by U.S. Trade Representative William Brock to exceed \$35 million. This vital trade in so-called "intangibles" is dependent on effective and efficient international telecommunications, which have a critical role to play in restoring the margin of safety in our national defense.

Too little attention has been accorded international telecommunications and information policies, despite the fact that several nations in Western Europe and Japan have targeted these commercial and industrial sectors for special emphasis and rapid development.

For several years, this Committee has questioned the adequacy of U.S. preparations for international telecommunications conferences. Although the United States has traditionally been prepared for discussions on technical issues, our representatives have often failed to recognize or lacked adequate policy guidelines to respond to the political and commercial considerations at these conferences.

Furthermore, there is increasing attention being paid to the issue of defining what the long range interests of the United States are in international communication and whether those interests are being

served in traditional international forums. For example, questions have been raised as to whether the final acts of the 1979 World Administrative Radio Conference (GWARC) are in the long range interests of the United States. U.S. delegates to the 1982 ITU Plenipotentiary Conference in Nairobi, Kenya have not yet had an opportunity to evaluate the impact of that conference on U.S. interests. Clearly, however, the 1979 GWARC and the 1982 Plenipotentiary Conference indicate that in the context of the International Telecommunication Union, U.S. communication interests will be subject to political pressures wholly unrelated to technical considerations.

The Committee directed the National Telecommunications and Information Administration (NTIA) under Public Law 97-259 to conduct a comprehensive study of the long-range international telecommunications and information policies necessary to promote U.S. interests and goals and the strategies to insure that the United States achieves them. NTIA was further directed to conduct a review of the structures, procedures and mechanisms which are utilized by the United States to develop international telecommunications and information policy. The Committee will review this study in early 1983.

Clearly greater attention must be given to a systematic, continuous process of preparation for international conferences. The chairman of the U.S. delegation to the ITU Plenipotentiary Conference, Michael Gardner, outlined for the Committee the difficulties he faced in preparing for that Conference. He testified in April; the conference began a mere 5 months later. Regardless of the results of that Conference, the lack of long-range policy and established procedures placed our delegation at a great disadvantage. Executive branch agencies and the FCC are preparing for the specialized conferences scheduled throughout this decade. This bill creates a Task Force that will ensure more effective preparation for these international telecommunications conferences under the chairmanship of the Secretary of Commerce.

The Commerce Department has broad authorities in international trade matters. The Committee believes, therefore, that programs aimed at developing and improving the implementation of U.S. policies in this area should be a primary responsibility of the Secretary of Commerce, whose organization uniquely blends the capability to deal with government and industry domestically as well as internationally. While section 203 of S. 2469, designates the Secretary of Commerce as Chairman of the task force, in order to insure that our foreign policy, defense, and procompetitive policy interests are appropriately addressed, the Departments of State, Defense and Justice and the U.S. Trade Representative would be made statutory members.

The Task Force will be required to meet on a periodically review and approve all positions, policies and public statements dealing with U.S. telecommunications and information policy. The Task Force will ensure that there is a consistent position advanced in international forums by the responsible delegations.

Before approval of a public position on international telecommunications and information policies, the Task Force will consult the Advisory Committee and solicit the members' views.

The Commerce Committee expects the Task Force to conduct its discussions and consultations so as to ensure that the United States is not delinquent in meeting its deadlines or other obligations.

The Task Force will also be responsible for reviewing the various conferences scheduled by the International Telecommunication Union, Organization for Economic Cooperation and Development and other international bodies to ensure that the responsible agency or agencies have assigned adequate resources and personnel to assure the successful achievement of U.S. interests.

Membership on the delegations to these international conferences will be coordinated with the Task Force to ensure that affected parties are represented on those delegations.

This section does not give the Task Force the authority to review the actions of independent regulatory agencies.

While the Task Force created by this bill will enhance policy formulations and preparation for international conferences within the Federal Government, another problem needs to be addressed. That is the lack of an identifiable point of focus within the Federal Government to articulate international telecommunications policies. At the present time, the Government does not speak with one voice in international telecommunications issues. As a result, the private sector does not know where to turn with questions about policy, or to whom contributions to policy development should be addressed. Likewise, foreign governments have no easily identifiable point of contact. This confusion contributes to U.S. difficulty in maintaining its leadership role in international telecommunications matters.

The existing organizational breakdown is caused by the efforts of Federal agencies to protect the programs within their jurisdiction and by the breadth and ambiguity of the executive orders and statutes which assign responsibility among Federal agencies for international telecommunications and information.

In 1970, President Nixon issued Executive Order 11556, establishing the Office of Telecommunications Policy (OTP) in the Executive Office of the President. The Director of OTP was the President's "principal adviser on telecommunications," and had authority to "develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations . . ." In addition, OTP was responsible for coordinating "those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conference and negotiations." While other agencies had interest, expertise, and responsibilities in international communications, it was clear that OTP was the principal voice in the executive branch on such matters.

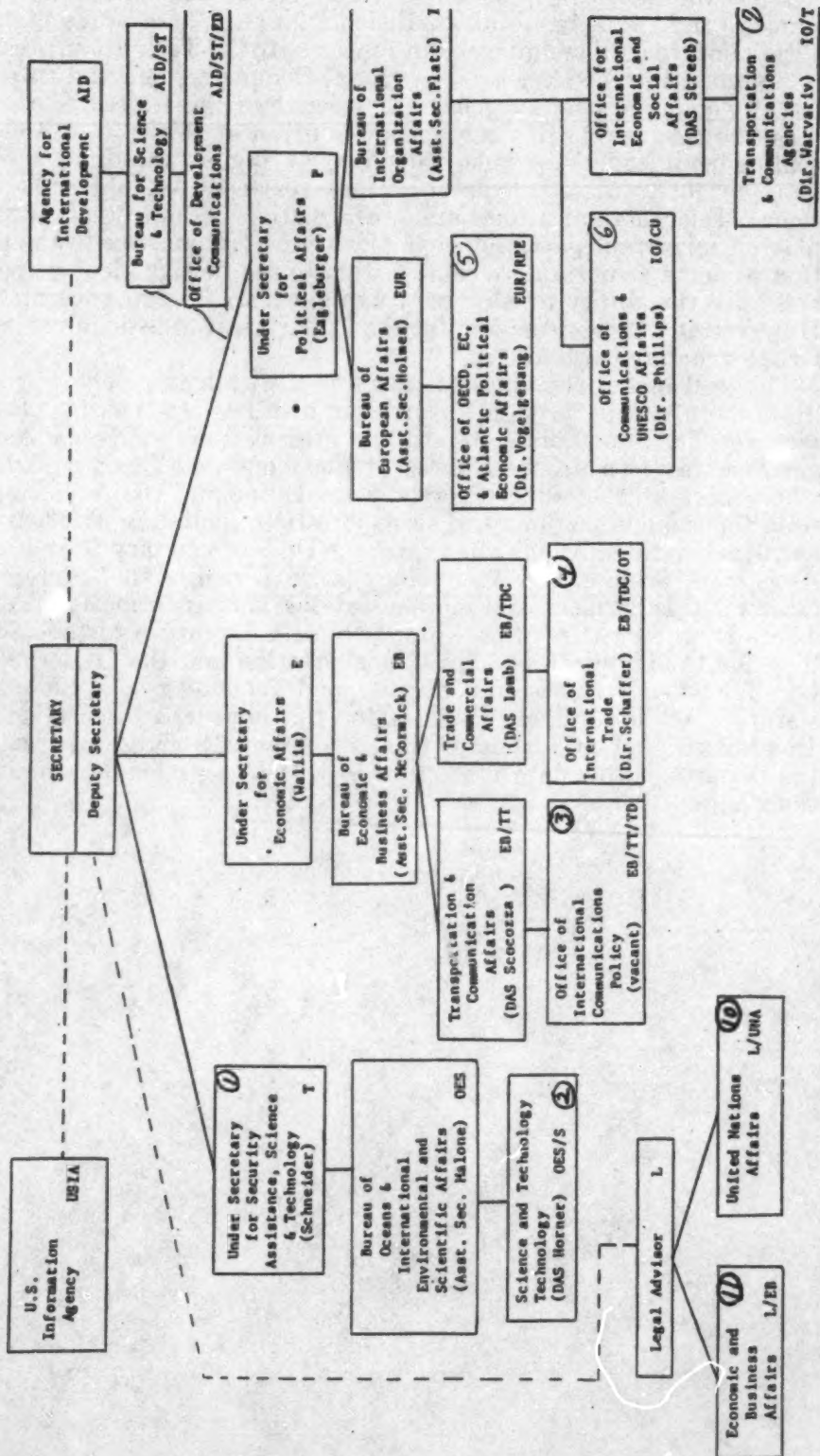
In 1978, President Carter abolished OTP and pursuant to Executive Order 12046, allocated responsibility for international communications policy among several executive branch agencies. Under the Executive order, the Secretary of Commerce is the President's principal adviser on telecommunications, conferences, and negotiations.

In addition, however, Executive Order 12046 provides the Secretary of State with a substantial, and apparently overlapping, coordinating role in international telecommunications and information policy, thus blurring the lines of authority within the Executive branch.

These duplicative grants of authority create tension among these agencies and result in ad hoc condition, planning, and representation. Title II of this bill assigns certain functions to the Task Force presently assigned to the Secretaries of State, Commerce, and the International Communications Agency (now renamed the United States Information Agency). But one agency is given authority to exercise a well-defined leadership role, including acting as the U.S. spokesman on international communications matters. Although the National Telecommunications and Information Administration must play an important part, the Department of State must be in the position to make a substantive contribution to the development of policy and have the ability to effectively explain it to foreign governments. However, it will be necessary for the Department to rationalize its internal structure to do so.

This bill makes communication matters within the Department of State more visible through the creation of a Deputy Assistant Secretary for Telecommunications. At the present time, a Deputy Assistant Secretary within the Bureau of Economic and Business Affairs, who reports to the Under Secretary for Economic Affairs, is responsible for communications and transportation, including aviation and maritime matters. At the same time, the Under Secretary for Security Assistance, Science, and Technology is Chairman of the Interagency Group on International Communications and Information Policy. There is no formal relationship between the Deputy Assistant Secretary for Communications and Transportation and the Under Secretary for Security Assistance, Science, and Technology and there is no statutory or administrative basis for the interdepartmental group. In addition, it should be noted that, at present, 11 offices or bureaus in the Department of State are concerned with international communications policy.

Offices in the Department of State
concerned with
International Communications Policy



The Department attempted to deal with this structural problem through the appointment of a Coordinator for International Communications and Information policy, responsible to the Under Secretary for Security Assistance, Science and Technology. The coordinator maintains liaison with the offices and bureaus of the Department of State, concerned executive branch agencies, the FCL, Congressional Committees, and the private sector. Creation of a Deputy Assistant Secretary, solely responsible for communications, would further enhance the Department's ability to contribute to the formulation and articulation of international communications and information policy.

The Committee recommends that serious consideration be given to upgrading the Deputy Assistant Secretary to a full Assistant Secretary for Communications and Information and consolidation of the various offices concerned with telecommunications and information matters under that Assistant Secretary. This would further indicate the importance of communications to the United States, provided a more systematic and efficient policymaking structure, and ensure that there is a single point of contact for foreign governments and the private sector in the Department.

COMMUNICATIONS SATELLITE ACT OF 1962

S. 2469, as reported, includes language intended to clarify the powers of Comsat and the powers of the FCC to authorize the scope of the Comsat's activities. Section 304(j) of the bill amends section 103 of the 1962 Act by adding subsection 103(13) to include definitions of the terms "authorized user" and "authorized entity." The section defines an authorized user or entity as one which the Commission authorizes to obtain channels of communication in the communications satellite system directly from Comsat. Section 304(k) of the bill amends section 201(c) of the 1962 Act, adding subsection 201(c)(12) to make it clear that the Commission is empowered to authorize users and entities to acquire channels of communication in the communications satellite system directly from Comsat. Both sections establish that the terms "authorized user" and "authorized entity" have a meaning different from "authorized entity" have a meaning different from "authorized carrier."

The 1962 Act, as originally enacted, did not define these terms or spell out the Commission's power to authorize access to channels of communication in the communications satellite system. The absence of such provisions has apparently caused confusion as to what Congress intended by the language in section 302(a)(2) of the 1962 Act, empowering the satellite corporation to "furnish, for hire channels of communication to U.S. communications common carriers and to other authorized entities, foreign and domestic. . . ." Similar confusion has arisen concerning the meaning of section 305(b)(4) of the Satellite Act which authorizes Comsat "to contract with authorized users, including the U.S. Government, for the services of the communications satellite system. . . ." Some observers have argued that the term "authorized user" and "authorized entity" were intended to be synonymous with the term "communications common carrier" and that by this language the 1962 Act restricted Comsat from providing service to anyone other than communications common carriers.

S. 2469 makes clear that these terms are not synonymous and that there is no bar on the provision of service by Comsat directly to individual, non-carrier users. Finally, the bill clarifies that in exercising its authorization powers under the 1962 Act with respect to non-carrier entities and users (i.e. liberalization of earth station ownership), that the Commission is to be guided by the same Communications Act public-interest standard which governs the authorization of communications common carriers to use the satellite system.

ESTIMATED COSTS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 15, 1982.

HON. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2469, the International Telecommunications Act of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

NOVEMBER 15, 1982.

1. Bill number: S. 2469.
2. Bill title: International Telecommunications Act of 1982.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, October 1, 1982.
4. Bill purpose: S. 2469 would require the Federal Communications Commission (FCC) to reduce regulation as competition develops in the area of international telecommunication services. The bill outlines a number of procedures and guidelines for the FCC to follow in the deregulation process. S. 2469 would establish an International Telecommunications Task Force within the Executive Branch, which would serve as principal coordinator for U.S. telecommunications or information policies. The bill would also establish a position of Deputy Assistant Secretary of State for Telecommunications Affairs, and make a number of changes to the Communications Satellite Act of 1962.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Estimated authorization level:					
FCC	0.1	-0.1	-0.2	-0.2	-0.2
Other	.5	.7	.8	.8	.8
Total	.6	.6	.6	.6	.6
Estimated outlays	.6	.6	.6	.6	.6

The costs of this bill fall primarily within budget subfunction 376.

6. Basis of estimate: Although S. 2469 provides no specific authorization of appropriations, it would require various federal agencies to perform functions not currently being performed. For purposes of this estimate, the cost to the federal government reflects this change relative to current law.

S. 2469 would require the FCC to identify the international telecommunication services that must continue to be regulated, with periodic review of their status. The FCC would have the authority to establish standards regarding interconnections with any carrier, facility or equipment, as well as the authority to invalidate or modify certain carrier contracts.

Section 608 would give the FCC statutory authority to develop a comprehensive planning process and to issue guidelines for the construction and use of international telecommunications facilities, which would reduce the time required to handle individual facility issues. In addition, the FCC would gradually be able to reduce the number of tariffs reviewed since fewer international services would be subject to regulation. As a result of these changes, and assuming enactment by mid-December, it is expected that the net number of workyears required by the FCC would increase by an estimated 2.2 years in 1983, but would be reduced by approximately 2.5 workyears beginning in 1984, 4.0 workyears in 1985, 4.5 workyears in 1986 and 5.5 workyears in 1987. Assuming an average GS11 salary grade, adjusted for overhead and pay increases, the estimated cost impact to the FCC would be approximately \$75,000 in 1983, -\$100,000 in 1984, -\$150,000 in 1985, -\$175,000 in 1986, and -\$225,000 in 1987.

Title I would give the President the authority to ensure the continuity of telecommunications essential to the national defense and emergency preparedness. It would require the President to coordinate a federal program to provide for the protection of facilities used for international telecommunications. The President would be required to establish a National Communications System and appoint a 30-member Advisory Council to carry out these activities. It is estimated that approximately \$100,000 annually would be required to perform these functions throughout the federal government.

Title II would also establish an 8-member Task Force to coordinate the development of international telecommunication policies within the United States. The Task Force would also be required to conduct several comprehensive studies, make recommendations to federal agencies, and report to the Congress periodically. It could be extended beyond its 36-month authorization by the President. Members, as specified in the bill, would be cabinet level officials who would serve without compensation, but would be reimbursed for actual expenses, including travel. Members would also be able to utilize specific federal personnel, services, and facilities, as required.

Based on data supplied by the Department of State and the Department of Commerce, which would have responsibility for appointing a staff director as well as staff to the Task Force, the cost for these activities throughout the federal government in fiscal year 1983 is estimated to be \$400,000. Costs are estimated to be \$600,000 in fiscal year 1984, and \$700,000 in fiscal years 1985, 1986, and 1987. This assumes that approximately 8 professional workyears and 3 clerical workyears, plus overhead and travel expenses, would be required to implement the pro-

visions of this section. It is also assumed that the Task Force would continue to operate through 1987. Costs in the year beyond 1983 have been adjusted for inflation.

In addition, the Task Force is responsible for establishing a 30-member advisory committee to provide policy guidance to the Task Force. The bill provides no provision for reimbursement of salary or expenses for members of this committee, who are to be drawn largely from the business community, including users and providers of telecommunications services. Costs of the staff, information, personnel and administrative services provided to the Advisory Board by the Task Force have been included in the estimated cost of the Task Force.

Finally, S. 2469 would establish the position of Deputy Assistant Secretary of State for Telecommunications Affairs. According to the Committee staff, it is the intent of the Committee that this position be viewed as a substitute for a current position, rather than an additional position. Consistent with Committee intent, therefore, it is expected that this provision would result in no additional cost to the federal government.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1981, CBO prepared a cost estimate for S. 821, a bill to provide for authorization of appropriations for the Federal Communications Commission. S. 821 also authorized the creation of a Task Force and advisory committee, with approximately the same estimated cost as assumed for these activities in S. 2469.

9. Estimate prepared by: Mary Maginniss.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

S. 2469 does not authorize the enactment of new budget authority, and the Committee intends that the costs to the FCC, and the Departments of State and Commerce for implementing this legislation will be absorbed by these agencies.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

While S. 2469 gives the FCC some new duties and powers, the overall eventual impact will be a substantial reduction of regulation of telecommunications services provided internationally. Specifically, section 603 instructs the FCC to reduce its regulations to the greatest extent feasible. All of the directions to the Commission emphasize Congress' belief that regulation should be limited strictly to those areas where the marketplace cannot function properly. Accordingly, a number of telecommunications activities that are currently regulated, will become deregulated.

These changes will result in significant deregulation of the international telecommunications industry, and major reductions in remaining regulatory authority. Even more reductions are expected when the Commission exercises its explicit exemption powers to eliminate all regulation that is not required by the public interest.

The impact of the new law on the FCC will initially mean an increase in its duties and responsibility during a one-year period after enactment. During that period, the Commission is required to analyze the need to retain regulatory authority over each regulated international telecommunications service. After the first year, however, the Commission's responsibilities will be reduced significantly.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1.—The Act is cited as the "International Telecommunications Act of 1982."

FINDINGS

Section 2.—There are three findings, namely that: (1) technology is making possible competition in the provision of international telecommunications services; (2) competition is a better regulator than government and as competition develops in relevant markets deregulation of such markets should occur; and (3) U.S. carriers facilities and services are essential to the provision of services for national defense and emergency preparedness purposes and economic competitiveness.

TITLE I

Title I of the bill creates a new Title VI to the Communications Act of 1934, as amended (47 U.S.C. 151). The new Title VI is entitled "International Telecommunications."

DEFINITIONS

Section 601.—(1) "Foreign" or "international telecommunications", "foreign" or "international transmission", or "international telecommunications services" are defined as telecommunications or transmissions from or to any place in the United States to or from a foreign country, or between a station in the United States and mobile stations located outside the United States. This definition should be read in conjunction with the definition of "telecommunications" in subsection 7, to make clear that an international telecommunications service includes the facilities essential to transmission.

(2) "Information Service" is broadly defined to refer to the various purposes for which information can be used, including generation of information, acquisition, storage, transformation, processing, retrieving, utilizing, or making available information by telecommunications facilities. The exception is that information services do not include the use of such information capability for the ongoing purposes of managing an international telecommunications service. Thus, the use of computers in switching systems used by carriers in the regular course of business would not be considered an information service.

(3) "National Communications System" is defined as the confederation of the telecommunications assets of the agencies and departments of the United States that is so often critical to our national defense, security and emergency preparedness efforts.

(4) "Regulated telecommunications service" or "regulated service" is defined as any international telecommunications service which the

Commission determines to be regulated and any international telecommunications service or facility not subject to effective competition as determined under section 604(b).

(5) "Resale" means the reoffering (whether or not value is added) for a profit of any international telecommunications service which has been obtained from a carrier.

(6) "Sharing" or "Shared Use" means a collective use of international telecommunications services or facilities with each user paying its pro rata share of the costs.

(7) "Telecommunications" refers to transmission of information without change in its form or content. This includes instrumentalities, facilities, apparatus, and equipment (including the collection, storage, forwarding, switching, and delivery of information) essential to the transmission of such information. Conversions, like analog to digital, do not change the form of the information. Internal transformations invisible to the user are not excluded from this definition.

(8) "International telecommunications carrier" or "carrier" refers to any person offering any international telecommunications service or facilities used to provide an international telecommunications service. The definition specifically provides that persons engaged in non-telecommunication services, provision of information service or software, producing or marketing equipment, broadcasting or cable service are not carriers. The definition also expressly provides that sharing of equipment, facilities or services among Government agencies does not make such an agency or agencies carriers.

(9) "Transmission facilities" or "telecommunications facilities" refers to equipment which allows for transmission of information by electromagnetic means or which directly supports such transmission. This includes wire, cable, microwave, satellite, and fiber optics, but expressly excludes customer premises equipment.

(10) "United States" is defined as the various states, territories, U.S. possessions and the District of Columbia.

STATEMENT OF POLICY

Section 602.—(a) States the policy of reliance on competition and the private sector. It further limits the Commission on minimal regulation whenever it finds it necessary to deregulate service or facilities not subject to effective competition. The presumption is that there are no basic technological, operational, or economic factors precluding international competition.

(b) States Congress' recognition of the need for continued international comity in the provision of international telecommunications services, and requires that the interests of sovereign nations be considered in the implementation of policy.

(c) States U.S. policy to promote in international forums (including, but not limited to, the CCITT and the International Consultative Committee for Radio (CCIR) the removal of prohibitions on the resale or shared use of international telecommunications services.

(d) Provides that the United States should promote cost based interconnection to monopoly transmission facilities.

AUTHORITY OF THE COMMISSION

Section 603.—Sets forth the FCC's continuing authority over regulated international telecommunications services. It directs the Commission to reduce or eliminate regulation as competition develops unless such reduction results in a significant adverse impact upon national defense and security, emergency preparedness or upon the economic competitiveness and viability of the U.S. industry vis-a-vis foreign competition.

CLASSIFICATION OF SERVICES

Section 604.—(a) Requires that the Commission publish a list of those international telecommunications services it regulates on the date of enactment.

(b) Provides that the Commission may then classify or reclassify as a regulated service any international telecommunications services or facilities when it finds that: (a) the services or facilities are not subject to effective competition; (b) Federal regulation is required to accomplish the purposes of this title; and (c) the benefits or regulation outweigh the costs.

(b)(2) Sets forth the factors the Commission must consider in determining the extent of competition.

TRANSITIONAL PROVISIONS OF CERTAIN SERVICES

Section 605.—(a) Requires that any international telecommunications service provided under tariff on the date of enactment shall continue to be provided under tariff for 1 year following the date of enactment.

(b) Requires the Commission to decide within 1 year of the date of enactment which of the tariffed services must continue to be regulated.

(c) Provides for automatic deregulation of any service for which the Commission fails to make the 605(b) determination, and requires the Commission to review its findings at least every 2 years.

INTERCONNECTION

Section 606.—(a) Provides that any carrier providing a regulated international telecommunications service is required to interconnect with any carrier, facility, equipment or private or Government system upon reasonable request and pursuant to non-discriminatory terms and conditions.

(b) Requires all carriers providing both international and domestic service to treat each operation as a separate entity for the purpose of the interconnection provisions.

(c) Sets forth the maximum penalty for violating this section.

CARRIER CONTRACTS

Section 607.—(a) Gives the Commission authority to vacate or require modification of any contract between or among carriers if the contract is found to be inconsistent with the act or discriminatory.

(b) Gives the Commission the authority to find unlawful any contract (or portions of it) between U.S. carriers and foreign administrations if the contract is found to violate the act.

INTERNATIONAL TELECOMMUNICATIONS FACILITIES

Section 608.—Gives the Commission the authority to develop procedures to assess facility construction proposals, and in assessing such proposals requires the Commission to develop guidelines to aid in the facility planning process. The Commission is granted authority, subject to conditions, to meet with foreign administrations. The U.S. carriers are allowed to meet to plan for facility construction, but are not thereby exempted from the antitrust laws.

PROTECTION AND RESTORATION OF ESSENTIAL TELECOMMUNICATIONS

Section 609.—Authorizes the President to require development and establishment of such mutual backup, restoration, and interconnection as necessary for the national defense and security. Further, the President is authorized to require any carrier to furnish services or facilities if necessary to promote the national defense. In addition, the President shall appoint an advisory council to assure that the structure, policy and needs of Federal telecommunications management are met.

APPLICABILITY OF TITLE

Section 610.—Restates the applicability of Title VI to telecommunications services designed to originate or terminate outside the United States, and retains the applicability of other portions of the Communications Act.

TITLE II—INTERNATIONAL TELECOMMUNICATIONS

SHORT TITLE

Section 201.—Provides the title as the “International Telecommunications and Information Coordination Act of 1982.

FINDINGS AND PURPOSE

Section 202.—States that the international telecommunications and information industries are important contributors to the U.S. economy, and that coordination of policy in this area is necessary.

ESTABLISHMENT OF THE TASK FORCE

Section 203.—Establishes a U.S. Government Task Force to coordinate international telecommunications and information policies. The Task Force is to consist of the Secretaries (or their high-level designees) of the Department involved, including the U.S. Trade Representative and the FCC. The Chairman of the Task Force shall be the Secretary of Commerce, or his designee, which must be the Assistant Secretary for Communications and Information. The Task Force shall terminate at the end of 3 years unless extended by the President.

POWERS OF THE TASK FORCE

Section 204.—Empowers the Task Force to develop consistent and comprehensive policies and to advise the President. In addition it will have authority to coordinate policies of all Federal agencies involving international telecommunications and information, to

review significant policy decisions and to approve, modify or disapprove such decisions (except for those of independent regulatory agencies).

TRANSFER OF FUNCTIONS

Section 205.—Conforms existing Executive orders to the bill.

ADMINISTRATIVE POWERS

Section 206.—Provides that the Task Force shall be staffed from within existing agencies, and that the Secretary of Commerce shall appoint a Director.

ADVISORY COMMITTEE

Section 207.—Authorizes the Task Force to establish a private sector Advisory Committee to provide overall policy guidance. The Task Force will not be bound by the advice provided by the Committee, but must inform Congress of the reasons why the advice was not followed.

TITLE III—MISCELLANEOUS

TRANSITION OF COMMISSION AUTHORITY

Section 301.—Provides that existing Commission decisions remain in effect until overruled.

INTERNATIONAL TELECOMMUNICATIONS

Section 302.—Restates the applicability of this act to the provision of international telecommunications services and facilities.

INTERNATIONAL ECONOMIC COMPETITION

Section 303.—Authorizes the Secretary of Commerce to analyze the competitive viability of U.S. carriers and telecommunications equipment suppliers vis-a-vis foreign competition.

THE COMMUNICATIONS SATELLITE ACT OF 1962

Section 304.—Amends the Communications Satellite Act to abolish the position of the Presidentially-appointed directors, to allow incorporation in places other than Washington, D.C., to remove Commission approval of stock-offerings, to allow outside ownership of earth stations, and to permit Comsat to serve the public directly.

DEPUTY ASSISTANT SECRETARY OF STATE

Section 305.—Creates the position of Deputy Assistant Secretary of State for Telecommunications Affairs.

REDESIGNATION OF TITLE VI OF THE COMMUNICATIONS ACT OF 1934

Section 306.—Redesignates as Title VII Title VI of the 1934 Communications Act as it exists of the date of enactment of this act.

ADDITIONAL VIEWS OF SENATOR HOLLINGS

There is a clear need for international telecommunications legislation. There is further a consensus that we should base it upon a pro-competitive approach while continuing to inject governmental oversight so long as there are foreign monopolies and so long as we have other national objectives to pursue. The difficulty lies in reducing these general objectives to specific policies. I believe that as a whole S. 2469's approach is constructive. It is on this foundation that I would like to add the following brief points.

(1) The institutions involved in international telecommunications are in a state of great flux. Countries once dependent on government monopolies for the provision of service are either taking or considering taking a more procompetitive posture. At the same time, many foreign nations are going in the opposite direction, imposing formidable barriers to the import of telecommunications and information services. Intelsat, the almost exclusive provider of international satellite service, is facing increased threats to its status. A.T. & T. is preparing to lay the first undersea optic fiber cable, an event that could dramatically change the cost and therefore the means of providing international service. All of this change and uncertainty places a premium on our establishing sound, fundamental objectives and effective institutions to carry them out.

(2) While we should strive towards a competitive international telecommunications marketplace, it is almost certain that a role for the Federal Government will continue: Countries have inherent differences in their policies and institutions; use of the electromagnetic spectrum must be coordinated; and other national interests, for example national security concerns, must be protected. All in all it would be unwise for the United States to pursue a pure *laissez faire* approach.

(3) Since our aim is a competitive international telecommunications marketplace, we must ensure that the policy relics of the monopoly era are discarded. Cartel planning, closed entry, restricted or limited access to bottleneck facilities, anti-competitive cross-subsidies, and other promonopoly measures cannot be tolerated in this new environment. Consistent with the need to protect our national interests, we must break with the past and eliminate the remnants of monopoly policies.

(4) The shortcomings of the Federal Government's efforts in international telecommunications are all too evident. We have become so ineffective that we claim victory when we merely maintain the status quo. Such a situation is intolerable when our telecommunications needs are expanding rapidly. What we now require is a firm and lasting commitment by the Federal Government to protect our international telecommunications and information interests. This does not necessarily mean a full scale reorganization, although such a measure may become essential. It certainly means we must allocate sufficient resources and expend sufficient effort. The stakes are too great for us to continue muddling through.

ERNEST F. HOLLINGS.